

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ESTHER LERNER,

-against-

AFNI, INC.

Plaintiff

GARAUFIS, J.

SHORELSKY, M. J. FILED

IN CLERK'S OFFICE
U.S. DISTRICT COURT, E.D.N.Y.

Defendant.

COMPLAINT

★ Feb 11 2009

X BROOKLYN OFFICE

Plaintiff, by and through her undersigned attorney, alleges upon knowledge as to herself and her own acts, and as to all other matters upon information and belief, brings this complaint against the above-named defendant and in support thereof alleges the following:

PRELIMINARY STATEMENT

1. Plaintiff brings this action on her own behalf and on behalf of all others similarly situated for damages and declaratory and injunctive relief arising from the defendant's violation of §1692 *et seq.* of Title 15 of the United States Code, the Fair Debt Collections Practices Act (hereinafter "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331. This is an action for violation of 15 U.S.C. § 1692.

3. Venue is proper in this district under 28 U.S.C. § 1331(b)(2).

PARTIES

4. Plaintiff Esther Lerner (hereinafter "Lerner") is a resident of the State of New York, Kings County. On or about February 12, 2008, plaintiff received an initial debt collection notice from defendant Afni, Inc.

5. Defendant Afni, Inc. is an Illinois Corporation engaged in the business of purchasing and collecting defaulted debt. Defendant regularly attempts to collect debt. Its Registered Agent is the C T Corporation Company, Inc., 111 Eighth Avenue, New York, NY 10011.

STATEMENT OF FACTS

6. On or about February 12, 2008 January 18, 2008, defendant did send to the plaintiff an initial collection letter. Copy of said letter is annexed hereto as **Exhibit A.**
7. The January 18, 2008 collection letter stated that Afni, Inc. acquired the Bell Atlantic account at issue and stated that the debt collector believed it was in the consumer's "best interest to resolve this account."
8. The consumer disputed the assertion that Afni, Inc. acquired the Bell Atlantic account at issue and demanded that both verification of the debt and the address of the original creditor be sent provided.
9. Defendant Afni, Inc. responded by letter dated March 19, 2008, that Afni investigated the dispute and closed the account. **Exhibit B.**

10. Defendant employs false representations when attempting to collect debt it claims to have purchased despite its inability to verify the debt or ascertain basic information, such as the address of the original creditor.
11. As a result of defendant's abusive, deceptive and unfair debt collection practices, plaintiff has been damaged.

FIRST CAUSE OF ACTION
(Violations of the FDCPA)

12. Each of the above allegations is incorporated herein.
13. Defendant's debt collection attempts violate various provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692e, 1692e(2)(A), 1692e(10), 1692g, 1692g(a)(2), 1692g(a)(4) and 1692g(a)(5), by falsely and deceptively attempting to collect Bell Atlantic debt it cannot evidence, cannot prove it owns nor identify the address of the original creditor, upon dispute.
14. As a result of defendant's violations of the FDCPA, plaintiff has been damaged and is entitled to statutory damages, costs and attorney's fees.

WHEREFORE, plaintiff respectfully requests that the Court enter judgment as follows:

- a) Awarding plaintiff statutory damages;
- b) Awarding plaintiff costs of this action, including reasonable attorneys' fees and expenses; and
- c) Awarding plaintiff such other and further relief as the Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38 of the FRCP, plaintiff hereby demands a trial by jury.

Dated: February 10, 2009
Uniondale, New York

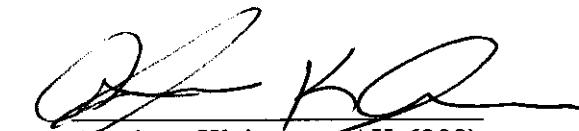

Abraham Kleinman (AK-6300)
KLEINMAN LLC
626 RXR Plaza
Uniondale, New York 11556-0626
Telephone (516) 522-2621
Facsimile (888) 522-1692

EXHIBIT A

Afn, Inc.
PO Box 3427
Bloomington, IL 61702-3427
(888)257-1585
www.afncollections.com

COLLECTION NOTICE

This account has been acquired by our agency for collection. We believe it is in your best interest to resolve this account.

If you have any questions, please contact our office toll free at (888)257-1585 Monday through Friday 7am-8pm CST. For proper credit on your account, please write this number 021407434-02 on your payment.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of the debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgement and mail you a copy of such judgement or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor. This is an attempt to collect a debt. Any information obtained will be used for the purpose. You have the right to inspect your credit. This letter is from a debt collector.

Please see reverse side of this notice for our Privacy Statement and credit card payment options.

To manage your account online, visit us at: www.efricancollections.com

New York City Department of Consumer Affairs | License Number: 61072275

This account is for a remaining balance from the original creditor for services associated with the previous telephone number listed below.

Please retain this information for your records.

Acnt. Inc. Account #	Balance Due	Original Creditor	Disconnected Phone #	Date
021407434-02	\$201.73	Bell Atlantic	(718)467-5386	2/12/2008

Detach along perforation and return bottom portion along with payment in the enclosed envelope. Credit card payment options are on the back of this page.

For proper credit, please include your Afn account # listed below on your check

REF ID: 221204112310-122-1-121

Department 555
PO BOX 4115
CONCORD CA 94524



Afin, Inc. Account #: 021407434-02
Original Creditor: Bell Atlantic
Disconnected Phone #: (718)487-5386
Balance Due: \$201.73
Date: 2/12/2008
Toll Free: (888)257-1585

ADDRESS SERVICE REQUESTED

#BWNFTZF #AFN4490489608028

3 02021407434 991500 20173

QUESTION

**Esther Lerner
1555 CARROLL ST
BROOKLYN NY 11213-5329**

PO Box 3427
Bloomington, IL 61702-3427

Exhibit B

P.O. Box 20939
Fenton, MI 48220



03/19/2008

ESTHER LERNER
1555 CARROLL ST
BROOKLYN, NY 11213-5329

Afni, Inc. Account #: 021407434-02

Original Creditor: VERIZON NEW YORK INC.
Creditor Account #: 7184675386244
Social Security #: XXX-XX-XXXX

This letter is to inform you that we have investigated your dispute related to the referenced account. Based on the investigation this account has been closed. Afni, Inc. will take no further collection action. In addition, if this account has been subject to credit reporting, the credit reporting agencies will be directed to remove this account from your credit report. Please note, it may take up to 60 days for the account to be removed from your record at all of the credit reporting agencies. In the interim, you may use this letter as a notice regarding the status of the account.

We apologize for the inconvenience this situation may have caused.

If you have any questions, please contact our office toll free at 1-888-827-6002 Monday - Friday 7am - 9pm CST. This letter is from a debt collector.

Sincerely,

Afni, Inc.

New York City Department of Consumer Affairs license number #1003125